

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF DELAWARE**

ROBERT SCHMIDT, individually,)	
AMY SCHMIDT, individually, h/w)	C.A. NO. 06-207 JJF
)	
<i>Plaintiffs,</i>)	
vs.)	
)	
FRANK HAMILTON, individually and)	
TRESSA THOMPSON-THOMAS,)	
individually,)	
<i>Defendants.</i>)	

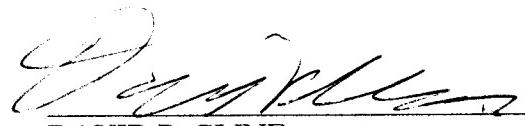
AFFIDAVIT

STATE OF DELAWARE :
NEW CASTLE COUNTY : ss.
:

BE IT REMEMBERED, that on this 5th day of May, A.D., 2006 personally came before me, the subscriber, a Notary Public for the State of Delaware, David P. Cline, Esquire, who being by me duly sworn according to law, deposes and says:

1. That he is the attorney for the above named plaintiffs.
2. To the best of his knowledge, information and belief, on April 07, 2006, a notice was sent to defendant, TRESSA THOMPSON-THOMAS, by registered mail consisting of a copy of the process and complaint served upon the Secretary of State, and a statement that service of the original of such process has been made upon the Secretary of State and that such service is as effectual as if it had been made upon such nonresident personally within this state.
3. Attached as Exhibit "A" is the receipt given by the post office to him on April 07, 2006 the date of mailing of the letter to defendant.

4. Attached as Exhibit "B" is the unclaimed, original registered sealed envelope which was returned to plaintiffs' attorney on May 03, 2006.
5. The letter to defendant, TRESSA THOMPSON-THOMAS, as required by 10 Del. C. § 3112 was contained in the envelope at the time it was mailed.
6. Attached as Exhibit "C" is a copy of the letter that was sent along with the Complaint.



DAVID P. CLINE

SWORN to and SUBSCRIBED on this 5th day of May 2006.

**ANGELA M. SPINELLA
Notary Public - State of Delaware
My Comm. Expires August 1, 2007**



NOTARY PUBLIC

Exhibit

A

— Registered No. RB295671401US

To Be Completed
By Post Office

Reg. Fee	47.90		
Handling Charge	\$0.00	Return Receipt	\$1.85
Postage	60.87	Restricted Delivery	\$0.00
Received by			
Customer Must Declare		With Postal Insurance	
Full Value \$ 40.00		Without Postal Insurance	
OFFICIAL USE			
DAVID P. Cline, Esquire 1300 N. Market Street Suite 700, Box 1970 Wilmington, DE 19899			
Tress Thompson-Thomas 100 Ridge Road Eastman, GA 31023			

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer
 May 2004 (7530-02-000-9051) (See Information on Reverse)
 For domestic delivery information, visit our website at www.usps.com

Date Stamp

0550

15

APR 7 2004

Domestic Insurance up to
 \$25,000 is included in the fee.
 International indemnity
 is limited.
 (See Reverse).

 WILMINGTON MAIN WINDOW
 Wilmington, Delaware
 198509609

 3379300550-0094
 (800)275-8777

04/07/2006

04:01:38 PM

Product Description	Sale Qty	Unit Price	Final Price
MARCUS HOOK PA 19061			\$0.87
First-Class			
2.30 oz.			
Return Rcpt (Green Card)			\$1.85
Registered			\$7.90
Insured Value :			\$0.00
Article Value :			\$0.00
Label #:			RB295671392US
====			
Issue PVI:			\$10.62
EASTMAN GA 31023			\$0.87
First-Class			
2.20 oz.			
Return Rcpt (Green Card)			\$1.85
Registered			\$7.90
Insured Value :			\$0.00
Article Value :			\$0.00
Label #:			RB295671401US
====			
Issue PVI:			\$10.62
MEDFORD NJ 08055			\$0.87
First-Class			
2.30 oz.			
Return Rcpt (Green Card)			\$1.85
Registered			\$7.90
Insured Value :			\$0.00
Article Value :			\$0.00
Label #:			RB295671389US
====			
Issue PVI:			\$10.62
Total:			\$31.86
Paid by:			
Personal Check			\$31.86
Bill#:	1000603028530		
Clerk:	15		
— All sales final on stamps and postage.			
Refunds for guaranteed services only.			
Thank you for your business.			
Customer Copy			

Schmidt

Exhibit

B

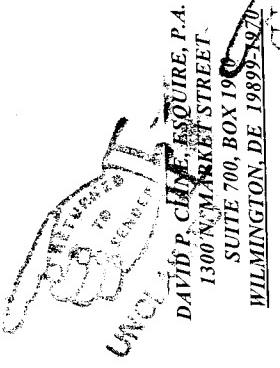
U.S. POST
PAID
WILMINGTON
19850
APR 07 '00
AMOUNT

Case 1:06-cv-00207-JJF
000364-
\$1052



0000

FIRST CLASS



Document 13 Filed 05/05/2006 Page 6 of 14

100% RECD
1st NOTICE MAY 03 2006
2nd NOTICE _____
RETURNED _____

TO:

Tress Thompson Thomas
100 Ridge Road, Eastman
Eastman, GA 31023



**RETURN RECEIPT
REQUESTED**

United States Postal Service
REGISTERED MAIL



4-10
L1-15
4-15
1ST NOTICE
2ND NOTICE
RETURNED

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tress Thompson-Thomas
100 Ridge Road.
Eastman, GA 31023

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

2. Article Number

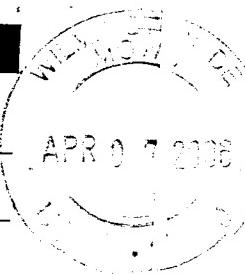
(Transfer from service label)

DB 295 071 401 US

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



Exhibit

C

David P. Cline

davidcline@mylawman.com

Attorney-at-Law

Let Mylawman become Yourlawman.TM

LICENSED TO PRACTICE IN
DE MD NJ NY & PA

FAX 302 654-0884

1300 N MARKET ST, SUITE 700
WILMINGTON DE 19801
302 529 - 7848
302 LAW-SUIT

April 7, 2006

PHILADELPHIA, PA 19103

MEDIA, PA 19063

MT LAUREL NJ 08054

800-460-4550 (NATIONWIDE)

Tress Thompson-Thomas
100 Ridge Road, Eastman
Eastman, GA 31023

VIA REGISTERED MAIL/RETURN RECEIPT REQUESTED & REGULAR MAIL

Re: Robert Schmidt et al. vs. Frank Hamilton, et al.
C.A. No.: 06-207 JJF

Dear Ms. Thompson-Thomas:

Please take notice that the enclosed process and complaint have been served upon the Secretary of State as prescribed by Section 3112 of Title 10 of the Delaware Code of 1953. This service upon the Secretary of State is made as if that service had been made upon you personally. Enclosed please find a copy of the Service of Process and the Complaint. Please note that you have 20 days from the date of service of this letter to file an answer to this complaint or a default judgment will be entered against you. A copy of that answer must be served upon me.

Please turn this matter over to the auto insurance company that was in effect on the date of this accident. If you do not have insurance that will cover you for this accident please contact me at the above number. Thank you.

Very truly yours,

/s/ David P. Cline
(signed electronically)

David P. Cline

Enclosure
DPC/AS/a

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Robert Schmidt Amy Schmidt		DEFENDANTS Frank Hamilton and Tessa Thompson-Thomas Bentwyn, PA Estman, GA	
(b) County of Residence of First Listed Plaintiff <u>New Castle</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>		<small>County of Residence of First Listed Defendant</small> <u>Estman, GA</u> <small>(IN U.S. PLAINTIFF CASES ONLY)</small>	
		<small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</small>	
(c) Attorney's (Firm Name, Address, and Telephone Number) David P. Cline, Esquire 130 North Market Street, Suite 700 Wilmington DE 19801 (302) 529-7878		<small>Attorneys (If Known)</small>	
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)	
<input type="checkbox"/> 1 U.S. Government Plaintiff		<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	
<input type="checkbox"/> 2 U.S. Government Defendant		<input checked="" type="checkbox"/> 4 Diversity <small>(Indicate Citizenship of Parties in Item III)</small>	
		<small>PTF</small> Citizen of This State <input checked="" type="checkbox"/> 1	<small>DEF</small> <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State
		<small>PTF</small> <input type="checkbox"/> 2 Citizen of Another State	<small>DEF</small> <input checked="" type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State
		<small>PTF</small> <input type="checkbox"/> 3 Citizen or Subject of a Foreign Country	<small>DEF</small> <input type="checkbox"/> 3 Foreign Nation
IV. NATURE OF SUIT (Place an "X" in One Box Only)			
CONTRACT		TORTS	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise		PERSONAL INJURY	
		<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	
REAL PROPERTY		PERSONAL PROPERTY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	
CIVIL RIGHTS		PRISONER PETITIONS	
<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights		<input type="checkbox"/> 510 Motions to Vacate Sentence <small>Habeas Corpus:</small> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	
V. ORIGIN (Place an "X" in One Box Only)		BANKRUPTCY	
<input checked="" type="checkbox"/> 1 Original Proceeding		<input type="checkbox"/> 2 Removed from State Court	
<input type="checkbox"/> 3 Remanded from Appellate Court		<input type="checkbox"/> 4 Reinstated or Reopened	
		<input type="checkbox"/> 5 Transferred from another district (specify)	
		<input type="checkbox"/> 6 Multidistrict Litigation	
		<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	
VI. CAUSE OF ACTION		<small>Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):</small> <u>28 U.S.C. 1332</u>	
<small>Brief description of cause:</small> <u>Personal Injury Auto</u>			
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION <small>UNDER F.R.C.P. 23</small>	
VIII. RELATED CASE(S) IF ANY <u>None</u>		<small>(See instructions):</small> <small>JUDGE</small>	
<small>DATE</small> <u>25 March 2006</u>		<small>SIGNATURE OF ATTORNEY OF RECORD</small> 	
<small>FOR OFFICE USE ONLY</small>			
<small>RECEIPT #</small>		<small>AMOUNT</small>	
		<small>APPLYING IFFP</small>	
		<small>JUDGE</small>	
		<small>MAG. JUDGE</small>	

UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF DELAWARE

ROBERT SCHMIDT, individually,)		
AMY SCHMIDT, individually, h/w)	C.A. NO.	2 0 7
)		
<i>Plaintiffs,</i>)		
vs.)		
)		
FRANK HAMILTON, individually and)		
TRESSA THOMPSON-THOMAS,)		
individually,)		
<i>Defendants.</i>)		

COMPLAINT

Plaintiffs, Robert Schmidt and Amy Schmidt, through their counsel, David P. Cline, Esquire, say by way of Complaint that:

JURISDICTION

I. JURISDICTION BASED ON DIVERSITY OF CITIZENSHIP

1. Jurisdiction is based on diversity of citizenship and the amount in controversy exceeds Seventy Five Thousand Dollars (\$75,000), exclusive of interest and costs.
2. Jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332.

VENUE

3. Venue lies under 28 U.S.C. Section 1391.

PARTIES

4. Plaintiff, Robert Schmidt, is and was at all times pertinent hereto a resident of the state of Delaware, residing at 30 Orchid Drive, Bear, DE 19701.

5. Plaintiff, Amy Schmidt, is and was at all times pertinent hereto a resident of the state of Delaware, residing at 30 Orchid Drive, Bear, DE 19701, and is the wife of plaintiff, Robert Schmidt.

6. Defendant, Frank Hamilton, an individual, upon information and belief, is believed at all times pertinent hereto, a resident of the state of Pennsylvania, residing at 1389 Brookcroft Lane, Boothwyn, PA 19061, Delaware County, Pennsylvania

7. Tressa Thompson-Thomas, an individual, upon information and belief, is believed at all times pertinent hereto, a resident of the state of Georgia, residing at 100 Ridge Road, Eastman, GA 31023.

COUNT I FACTS OF ACCIDENT

1. On December 21, 2005, at approximately 6:57 p.m., plaintiff, Robert Schmidt, was stopped southbound, on I-95, Vietnam Veterans Highway, in Delaware County, Pennsylvania.

2. At the same time and place, defendant, Frank Hamilton Jr., was operating his vehicle, a silver 2004 GMC Yukon, heading southbound, and operated his vehicle in a negligent, careless and/or reckless manner, causing his vehicle to violently collide into plaintiff, Robert Schmidt's vehicle.

3. At the same time and place, defendant Tressa Thompson-Thomas, was operating her vehicle, a green 1999 Pontiac Grand Prix, heading southbound, and operated her vehicle in a negligent, careless, and/or reckless manner causing her vehicle to violently collide into defendant's, Frank Hamilton vehicle, which was positioned behind the plaintiff's Robert Schmidt, vehicle, causing further injury to the plaintiff, Robert Schimdt.

- a. Did operate her motor vehicle without due regard for the rights, safety and position of the plaintiff, at the time and place aforesaid;
- b. Did fail to give proper and sufficient warning or the approach of the motor vehicle under her control;
- c. Failed to have her vehicle under proper and adequate control at the time;
- d. Did failed to adhere to the rules of the road concerning the legal distance one must keep from another vehicle in order to safely operate a motor vehicle, and in the operation of motor vehicles of public highways;
- e. Did fail to maintain a proper lookout;
- f. Did fail to keep her vehicle under control and violently struck the plaintiff's vehicle;

COUNT II MEDICAL

8. As a result of the negligence, carelessness, and /or recklessness of the defendants, Frank Hamilton and Tressa Thompson-Thomas, plaintiff, Robert Schmidt suffered serious bodily injuries including to, but not limited to: brain injury, requiring surgery due to a hematoma on right side of skull, comatose state and an inability to resume his normal activities of daily living which may be permanent in nature.

9. As a further result of the injuries mentioned above, plaintiff, Robert Schmidt, has sustained a loss of earnings and/or earnings capacity, which may continue into the indefinite future.

10. As a further result of the negligence of the defendants, Frank Hamilton, and Tressa Thompson-Thomas, the plaintiff, Amy Schmidt, has suffered the loss of society, aid, comfort, companionship, and consortium of her husband. plaintiff, Robert Schmidt..

WHEREFORE, Plaintiff, Robert and Amy Schmidt, demand judgment against defendants, Frank Hamilton, and Tressa Thompson-Thomas for monetary damages, property damages, pain and suffering, lost wages, attorney fees and costs of suit.

COUNT III CONSORTIUM

11. As a further result of the negligence of the defendants, Frank Hamilton and Tressa Thompson-Thomas, the plaintiff, Amy Schmidt, has suffered the loss of society, aid, comfort, companionship, and consortium of her husband, plaintiff, Robert Schmidt.
WHEREFORE, Plaintiffs, Roberts Schmidt and Amy Schmidt demand judgment against defendants, Frank Hamilton and Tressa Thompson-Thomas, for monetary damages, property damages, pain and suffering, lost wages, attorney fees and costs of suit.

DAVID P. CLINE, P.A.

BY: /s/ David P. Cline
David P. Cline, Esq. (#2681)
1300 N. Market St., Ste. 700
Wilmington, DE 19801
(302) 529-7848
Attorney for Plaintiff(s)

Dated: March 30, 2006